

CITY OF TIGARD, OREGON

RESOLUTION NO. 03- 55

A RESOLUTION PROVIDING ADDITIONAL INCENTIVES TO THE NEIGHBORHOOD SEWER REIMBURSEMENT DISTRICT INCENTIVE PROGRAM (RESOLUTION NO. 01 – 46).

WHEREAS, the City Council has initiated the Neighborhood Sewer Extension Program to extend public sewers through Reimbursement Districts in accordance with TMC Chapter 13.09; and

WHEREAS, on July 10, 2001, the City Council established the Revised and Enhanced Neighborhood Sewer Reimbursement District Incentive Program through Resolution No. 01-46 to encourage owners to connect to public sewer within three-years following construction of sewers; and

WHEREAS, Council has directed that additional incentives should be made available to encourage owners of large lots to promptly connect to sewers once service is available.

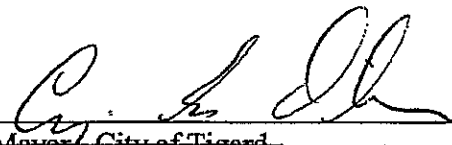
NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

- SECTION 1:** In addition to the incentives provided by Resolution No. 01-46, any person whose reimbursement fee exceeds \$15,000 and wishes to connect a single family home or duplex to a sewer constructed through a reimbursement district may defer payment of the portion of the reimbursement fee that exceeds \$15,000, as required by Section 3 of Resolution No. 01-46, until the lot is partitioned or otherwise developed in accordance with a land use permit. The land use permit shall not be issued until payment of the deferred amount is made. The Annual Fee Adjustment required by TMC Section 13.09.115 shall not apply to payment of this deferred amount.
- SECTION 2:** Lots that qualify under Section 1, within reimbursement districts that have exceeded the three-year period for connection, and have not connected to sewer can connect the existing structure, pay a reimbursement fee of \$6,000, and defer payment of the portion of the reimbursement fee that exceeds \$15,000 if connection to the sewer is completed within one year after the effective date of this resolution.
- SECTION 3:** Vacant lots improved with a single family home or duplex during the term of the reimbursement district shall qualify for the provisions of Resolution No. 01-46, pay \$6,000 if the fee exceeds that amount, and may defer payment of the portion of the reimbursement fee that exceeds \$15,000 as provided by Section 1.
- SECTION 4:** Vacant lots that are partitioned, subdivided, or otherwise developed during the life of the reimbursement district shall qualify for the provisions of Resolution No. 01-46, shall pay a reimbursement fee of \$6,000, and shall pay any amount due over \$15,000 at the time of development. The Annual Fee Adjustment required by TMC Section 13.09.115 shall not apply to payments made under this section.
- SECTION 5:** The owner of any lot for which deferred payment is requested must enter into an agreement with the City, on a form prepared by the City Engineer, acknowledging the

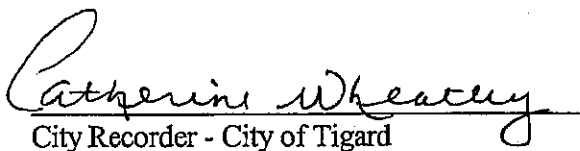
owner's and owner's successors obligation to pay the deferred amount as described in Section 1. The City Recorder shall cause the agreement to be filed in the office of the County Recorder to provide notice to potential purchasers of the lot. The recording will not create a lien. Failure to make such a recording shall not affect the obligation to pay the deferred amount.

- SECTION 6: Any person who qualifies under Section 1 and has paid a reimbursement fee for the portion of the reimbursement fee in excess of \$15,000 is entitled to reimbursement for that amount from the City upon request. The amounts to be reimbursed and the persons to be paid shall be determined by the Finance Director and approved by the City Manager. There shall be a full explanation of any circumstances that require payment to any person who is not an original payer. Any person requesting a refund must sign an agreement similar to that described in Section 5 acknowledging the obligation to pay the refunded amount upon partitioning or developing the lot.
- SECTION 7: The Sanitary Sewer Fund continues to remain the funding source for the Neighborhood Sewer Reimbursement District Program and shall provide the funding for the installation costs over \$6,000 up to a maximum of \$15,000 per connection and for any deferred payment permitted by this resolution.
- SECTION 8: This resolution is effective immediately upon passage.

PASSED: This 14th day of October 2003.


~~Mayor - City of Tigard~~
Craig E. Dirksen, Council President

ATTEST:


Catherine Wheatey
City Recorder - City of Tigard

l:\eng\rag\reimbursement districts\revisions res 01-46 aug 26 03\oct 14 03 council\10-14-03 addition to res 1-46 res.doc

Citywide Sewer Extension Program

Background

The Citywide Sewer Extension Program is a Council-directed program to systematically extend sewer service throughout the City. The mechanism to extend the sewer lines and provide service is through the formation of reimbursement districts. Reimbursement districts are formed to install public sewers to the lots within the districts and the owners would reimburse the City for a fair share of the cost of the public sewer at the time of connection. The program is now entering its third year and is intended to provide public sewers to all developed but unserved areas in the City. At the beginning of this program approximately two years ago, there were over 680 residential lots throughout the City, plus about 80 commercial lots in the Tigard Triangle Area, without sewer service. These lots were typically on septic systems 30 years old or more. Failed septic systems create health hazards to the community. It is extremely difficult to react to failed septic systems that occur at random throughout the City. The ideal solution would be to extend sewers to all unsewered residential areas such that City sewer would be available as these systems fail.

The previous program prior to 2001 initiated projects contingent upon sufficient interest shown within a project area. To be considered for the program at that time, a neighborhood was required to submit evidence of resident support of a project. Consequently, reimbursement districts were established as requested by the residents rather than by a schedule set by the City. Unfortunately, this resulted in sewers being installed at random throughout the City. Often, lines had to be extended through other areas to serve those lots with failing septic systems. It was an extremely inefficient and expensive way to provide sewer service.

Council therefore directed the establishment of a 5-year program to systematically extend sewers Citywide in accordance with a sewer master plan developed for that purpose. On June 12, 2001, Council adopted the current plan to install sewers throughout the City by 2006 on a schedule set by the City rather than in response to requests for service from owners. The intention was to systematically extend sewer service throughout the City so that as aging septic systems failed, sewers would be available for the owner to connect to without delay and at the least possible expense. To encourage early sewer hookups under the previous program, City Council established the Neighborhood Sewer Reimbursement District Incentive Program on October 13, 1998. This program limited the amount any residential owner was required to pay for a share of the public sewer to \$8,000 up to a maximum of \$15,000 if the connection was completed within one year from when it was first available.

To encourage even more connections, Council modified the Incentive Program in 2001 so that the maximum amount an owner is required to pay for a share of the public line was reduced from \$8,000 to \$6,000 up to a maximum of \$15,000. The time allowed for an owner to take advantage of this reduced cost was increased from one to three years from when the service first became available.

The Current Program

Under the current program, the City forms reimbursement districts to construct the sewer improvements. At the time the property owner connects to the sewer, the owner would reimburse the City for a fair share of the total project cost. The amount an owner reimburses the City to connect to the sewer includes the actual amount the contractor is paid to construct the project plus 13.5% for engineering and administrative costs. For those owners that connect within the first three years after sewer becomes available, the City offers an incentive program that caps the owner's share at \$6,000 for the fair share that falls between \$6,000 and \$15,000. The owner would pay for any costs that exceed \$15,000. This, in effect, is a maximum \$9,000 subsidy from the City. Costs that exceed \$15,000 for any particular lot typically indicate that the lot is large in size and is capable of being subdivided into two or more lots upon development.

In addition to the fair share of the project cost, each owner would be required to pay a connection fee of \$2,435 before connecting to the line and would be responsible for disconnecting the existing septic system according to County rules and for any other plumbing modifications necessary to connect to the public line. Because the costs for plumbing modifications and closure of the existing septic systems vary widely for each lot and structure, each owner would need to consult a plumbing contractor to provide an estimate for what that cost would be.

The costs involved are therefore:

- Fair Share of the Project Cost (Each lot's share of the actual cost of the project plus 13.5% for engineering and administrative costs)
- Connection Fee (currently \$2,435.00)
- Plumbing modifications to connect to the sewer lateral provided (Owner's Responsibility-Costs vary dependent upon situation))
- Closure of the existing septic system (Owner's Responsibility-Costs vary dependent upon situation)

There is no requirement to connect to the sewer or to pay any fees until the owner chooses to connect to the sewer. Property owners that connect to the sewer fifteen (15) years or more after the district is formed do not have to pay the reimbursement fee. The connection charges at the time of connection would apply.

For those that do not choose to connect during the first three years after the sewer is made available, the reimbursement fee would be the full share of the project cost plus an annual increase as established by the City's Finance Director. The current rate (simple interest) is 6.05%.

The program is expected to conclude in 2006. Once the program is concluded, the remaining lots would be served based on interest shown by the residents and would be dependent upon availability of funding at that time.

CITY OF TIGARD, OREGON

RESOLUTION NO. 01-46

A RESOLUTION REPEALING RESOLUTION NO. 98-51 AND ESTABLISHING A REVISED AND ENHANCED NEIGHBORHOOD SEWER REIMBURSEMENT DISTRICT INCENTIVE PROGRAM

WHEREAS, the City Council has initiated the Neighborhood Sewer Extension Program to extend public sewers through Reimbursement Districts in accordance with TMC Chapter 13.09; and

WHEREAS, on October 13, 1998, the City Council established The Neighborhood Sewer Reimbursement District Incentive Program through Resolution No. 98-51 to encourage owners to connect to public sewer. The program was offered for a two-year period after which the program would be evaluated for continuation; and

WHEREAS, on September 26, 2000, the City Council extended The Neighborhood Sewer Reimbursement District Incentive Program an additional two years through Resolution No. 00-60; and

WHEREAS, City Council finds that residential areas that remain without sewer service should be provided with service within five years; and

WHEREAS, Council has directed that additional incentives should be made available to encourage owners to promptly connect to sewers once service is available and that owners who have paid for service provided by previously established districts of the Neighborhood Sewer Extension Program should receive the benefits of the additional incentives.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: Resolution No. 98-51 establishing the Neighborhood Sewer Reimbursement District Incentive Program is hereby repealed.

SECTION 2: A revised incentive program is hereby established for the Neighborhood Sewer Extension Program. This incentive program shall apply to sewer connections provided through the sewer reimbursement districts shown on the attached Table 1 or established thereafter. All connections qualifying under this program must be completed within **three years** after Council approval of the final City Engineer's Report following a public hearing conducted in accordance with TMC Section 13.09.105 or by **two years** from the date this resolution is passed, which ever is later, as shown on the attached Table 1.

SECTION 3: To the extent that the reimbursement fee determined in accordance with Section 13.09.040 does not exceed \$15,000, the amount to be reimbursed by an owner of a lot zoned single family residential shall not exceed \$6,000 per connection, provided that the lot owner complies with the provisions of Section 2. Any amount over \$15,000 shall be reimbursed by the owner. This applies only to the reimbursement fee for the sewer installation and not to the connection fee, which is still payable upon application for

RESOLUTION NO. 01-46

sewer connection.

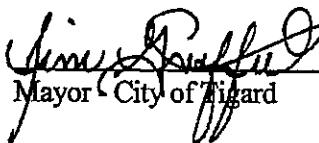
SECTION 4: The City Engineer's Report required by TMC Chapter 13.09 shall apply the provisions of this incentive program. Residential lot owners who do not connect to sewer in accordance with Section 2 shall pay the full reimbursement amount as determined by the final City Engineer's Report.

SECTION 5: Any person who has paid a reimbursement fee in excess of the fee required herein is entitled to reimbursement from the City. The amounts to be reimbursed and the persons to be paid shall be determined by the Finance Director and approved by the City Manager. There shall be a full explanation of any circumstances that require payment to any person who is not an original payer. The Finance Director shall make payment to all persons entitled to the refund no later than August 31, 2001.

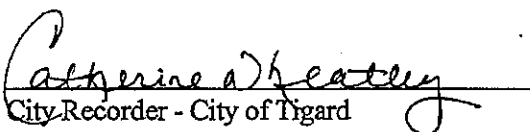
SECTION 6: The Sanitary Sewer Fund, which is the funding source for the Neighborhood Sewer Reimbursement District Program, shall provide the funding for the installation costs over \$6,000 up to a maximum of \$15,000 per connection.

EFFECTIVE DATE: July 10, 2001

PASSED: This 10th day of July 2001.


Mayor City of Tigard

ATTEST:


City Recorder - City of Tigard

I:\Citywide\Res\Resolution Revising the Neighborhood Sewer Incentive Program

TABLE 1
Reimbursement Districts with Refunds Available

DISTRICT	FEE PER LOT	REIMBURSEMENT AVAILABLE	INCENTIVE PERIOD ENDS
TIGARD ST.No.8	5,193	No reimbursement available	
FAIRHAVEN ST/WYNo.9	4,506	No reimbursement available	
HILLVIEW ST No.11	8,000		July 11, 2003
106 TH & JOHNSON No.12	5,598	No reimbursement available	
100 TH & INEZ No.13	8,000		July 11,2003
WALNUT & TIEDEMAN No.14	8,000		July 11,2003
BEVELAND&HERMOSA No.15	5,036	No reimbursement available	
DELMONTE No.16	8,000		July 11,2003
O'MARA No.17	8,000		July 11,2003
WALNUT & 121 ST No.18	-	Amount to be reimbursed will be	Throo years from service availability
ROSE VISTA No.20	-	determined once final costs are determined.	

* Currently being constructed

CITY OF TIGARD, OREGON

RESOLUTION NO. 98- 51

A RESOLUTION ESTABLISHING A NEIGHBORHOOD SEWER REIMBURSEMENT DISTRICT INCENTIVE PROGRAM.

WHEREAS, the City has initiated the Neighborhood Sewer Extension Program to extend public sewers through Reimbursement Districts in accordance with TMC Chapter 13.09; and

WHEREAS, the amounts reimbursed by residential lot owners in the past have been below \$8,000 per connection; and

WHEREAS, the reimbursement districts that are currently under consideration have estimated reimbursement costs ranging from \$9,000 to \$14,000 per connection; and

WHEREAS, the costs of reversing residential plumbing, closing the existing septic tank, installation of a sewer lateral to connect to the public system, and payment of the connection fee add several thousand dollars more to the burden of a residential lot owner who wishes to connect to City sewer; and

WHEREAS, the City Council wishes to initiate an incentive program to encourage residents to connect to public sewer; and

WHEREAS, the City Council finds that establishing a maximum reimbursement fee for residents to pay will further the objectives of the program by encouraging formation of sewer reimbursement districts and actual connections to public sewer; and

WHEREAS, based on previous reimbursement districts, the amount of \$8,000 appears to be a reasonable amount to establish as the maximum fee for reimbursement by residential lot owners; and

WHEREAS, the City Council concurs that the sum of \$15,000 should be established as the maximum cost per connection; and

WHEREAS, the City Council wishes to offer this incentive program for a two-year period, after which the program will be evaluated for continuation.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: An incentive program is hereby established for the Neighborhood Sewer Extension Program with a maximum fee of \$8,000 for reimbursement by residential lot owners. This applies only to the reimbursement fee for the sewer installation and not to the connection fee, which is still payable upon application for sewer connection.

SECTION 2: This Resolution shall apply to sewer connections provided through sewer reimbursement districts established by October 12, 2000. All connections qualifying

under this incentive program must be completed within one year after Council approval of the final City Engineer's Report following a final public hearing conducted in accordance with TMC Section 13.09.105.

SECTION 3: The City Engineer's Report required by TMC Chapter 13.09 shall include a provision that to the extent that the reimbursement fee determined in accordance with Section 13.09.040 does not exceed \$15,000, the amount to be reimbursed by an owner of a lot zoned single-family residential shall not exceed \$8,000 per connection, provided the lot owner complies with the provisions of Section 2. Any amount over \$15,000 shall be reimbursed by the owner. Residential lot owners who do not connect to sewer in accordance with Section 2 shall pay the full reimbursement amount as determined by the final City Engineer's Report.

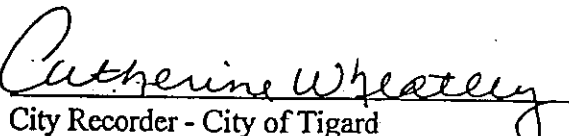
SECTION 4: The funding source for the Neighborhood Sewer Reimbursement District Program shall provide the funding for the installation costs over \$8,000 up to a maximum of \$15,000 per connection.

PASSED: This 13th day of October 1998:



Mayor - City of Tigard

ATTEST:



City Recorder - City of Tigard

\\citywide\res\reim-i.doc

TIGARD MUNICIPAL CODE

Chapter 13.09 REIMBURSEMENT DISTRICTS.

Sections:

- 13.09.010 Definitions.
- 13.09.020 Application For A Reimbursement District.
- 13.09.030 City Engineer's Report.
- 13.09.040 Amount To Be Reimbursed.
- 13.09.050 Public Hearing.
- 13.09.060 Notice Of Public Hearing.
- 13.09.070 City Council Action.
- 13.09.080 Notice Of Adoption Of Resolution.
- 13.09.090 Recording The Resolution.
- 13.09.100 Contesting The Reimbursement District.
- 13.09.105 Final Public Hearing.
- 13.09.110 Obligation To Pay Reimbursement Fee.
- 13.09.115 Annual Fee Adjustment.
- 13.09.120 Administration.

13.09.010 Definitions.

1. "City Engineer" or "Engineer" means the person holding the position of City Engineer or any officer or employee designated by that person to perform duties stated within this chapter.

2. "City" means the City of Tigard.

3. "Person" means a natural person, the person's heirs, executors, administrators, or assigns; a firm, partnership, corporation, association or legal entity, its or their successors or assigns; and any agent employee or any representative thereof.

4. "Applicant" means a person, as defined in Subsection 13.09.010.3, who is required or chooses to finance some or all of the cost of a street, water or sewer improvement which is

available to provide service to property, other than property owned by the person, and who applies to the City for reimbursement for the expense of the improvement. The "applicant" may be the City.

5. "Street Improvement" means a street or street improvement conforming with standards in the Tigard Community Development Code and including but not limited to streets, storm drains, curbs, gutters, sidewalks, bike paths, traffic control devices, street trees, lights and signs and public right-of-way.

6. "Water Improvement" means a water or water line improvement conforming with standards in the Tigard Community Development Code and including but not limited to extending a water line to property, other than property owned by the applicant, so that water service can be provided for such other property without further extension of the line.

7. "Sewer Improvement" means a sewer or sewer line improvement conforming with standards in the Tigard Community Development Code and including but not limited to extending a sewer line to property, other than property owned by the applicant, so that sewer service can be provided for such other property without further extension of the line.

8. "Reimbursement District" means the area which is determined by the City Council to derive a benefit from the construction of street, water or sewer improvements, financed in whole or in part by the applicant and includes property which has the opportunity to utilize such an improvement.

9. "Reimbursement Fee" means the fee required to be paid by a resolution of the City Council and the reimbursement agreement. (Ord. 96-13; Ord. 94-10).

TIGARD MUNICIPAL CODE

13.09.020 Application For A Reimbursement District.

1. Any person who is required to or chooses to finance some or all of the cost of a street, water or sewer improvement which is available to provide service to property, other than property owned by the person, may, by written application filed with the City Engineer, request that the City establish a reimbursement district. The street, water and sewer improvements must include improvements in addition to or in a size greater than those which would otherwise ordinarily be required in connection with an application for permit approval and must be available to provide service to property other than property owned by the applicant. Examples include but shall not be limited to full street improvements instead of half street improvements, off site sidewalks, connection of street sections for continuity, extension of water lines and extension of sewer lines. The City may also initiate formation of a reimbursement district. The application shall be accompanied by a fee, as established by resolution, sufficient to cover the cost of administrative review and notice pursuant to this Chapter.

2. The application shall include the following:

a. A description of the location, type, size and cost of the public improvement to be eligible for reimbursement.

b. A map showing the properties to be included in the proposed reimbursement district; the zoning district for the properties; the front footage or square footage of said properties, or similar data necessary for calculating the apportionment of the cost; and the property or properties owned by the applicant.

c. The estimated cost of the improvements as evidenced by bids, projections

of the cost of labor and materials, or other evidence satisfactory to the City Engineer.

d. The estimated date of completion of the public improvements.

e. Applicant may request a discretionary annual fee adjustment, which, if granted, will be administered pursuant to Section 13.09.115. (Ord. 96-13; Ord. 94-10).

13.09.030 City Engineer's Report.

The City Engineer shall review the application for the establishment of a reimbursement district and evaluate whether a district should be established. The Engineer may require the submittal of other relevant information from the applicant in order to assist in the evaluation. The Engineer shall prepare a written report for the City Council, considering and making recommendations concerning the following factors:

1. Whether the applicant will finance some or all of the cost of a street, water or sewer improvement, thereby making service available to property, other than property owned by the applicant;

2. The area to be included in the reimbursement district;

3. The estimated cost-of the street, water or sewer improvements within the area of the proposed reimbursement district and the portion of the cost for which the applicant should be reimbursed;

4. A methodology for spreading the cost among the parcels within the reimbursement district and where appropriate defining a "unit" for applying the reimbursement fee to property which may, with City approval, be partitioned, altered, modified, or subdivided at some future date. The

TIGARD MUNICIPAL CODE

methodology should include consideration of the cost of the improvements, prior contributions by property owners, the value of the unused capacity, rate-making principles employed to finance public improvements, and other factors deemed relevant by the City Engineer. Prior contributions by property owners will only be considered if the contribution was for the same type of improvement and at the same location (example: a sewer-related contribution in the same location as a sewer improvement would be considered, a water-related contribution in the same location as a sewer improvement would not be considered);

5. The amount to be charged by the City for administration of the district by the City. The administration fee shall be fixed by the City Council and will be included in the resolution approving and forming the reimbursement district. If the applicant is other than the City, the administration fee is due and payable to the City at the time the agreement in Section 13.09.070.2 is signed. If the City is the applicant, the administration fee shall be included in the reimbursement fee and is due and payable at the time there is an obligation to pay the reimbursement fee as required by Section 13.09.110. (Ord. 01-11A §1).

6. The period of time that the right to reimbursement exists if the period is less than fifteen years. (Ord. 96-13; Ord. 94-10).

13.09.40 Amount To Be Reimbursed.

1. The cost to be reimbursed to the applicant, if other than the City, shall be limited to the cost of construction, engineering, and off-site right of way. If the applicant is the City, the costs to be reimbursed shall also include an administration cost and all costs associated with the acquisition of easements and rights of way. Engineering shall include surveying and inspection and shall not exceed 13.5% of eligible construction cost. If the applicant is other than the

City, the costs to be reimbursed for right of way shall be limited to the reasonable market value of land or easements purchased by the applicant from a third party to complete off-site improvements. (Ord. 01-11A §2).

2. No reimbursement shall be allowed for financing costs, permits or fees required for construction permits, land or easements dedicated by the applicant, costs which are eligible for traffic impact fee credits or systems development charge credits, or any costs which cannot be clearly documented.

3. No reimbursement shall be allowed for construction costs that occur prior to the formation date of the reimbursement district.

4. Reimbursement for legal expenses shall be allowed only to the extent that such expenses relate to the preparation and filing of an application for reimbursement, and to working with the City through the Engineer's Report and formation public hearing stages of an application.

5. A reimbursement fee shall be computed by the City for all properties which have the opportunity to utilize the improvements, including the property of the applicant for formation of a reimbursement district. The applicant for formation of the reimbursement district shall not be reimbursed for the portion of the reimbursement fee computed for the property of the applicant. (Ord. 96-13; Ord. 94-10).

13.09.050 Public Hearing.

1. Within a reasonable time after the City Engineer has completed the report required in Section 13.09.030, the City Council shall hold an informational public hearing in which any person shall be given the opportunity to comment on the proposed reimbursement district. Because formation of the reimbursement district does not result in an assessment against property or lien

TIGARD MUNICIPAL CODE

against property, the public hearing is for informational purposes only and is not subject to mandatory termination because of remonstrances. The City Council has the sole discretion after the public hearing to decide whether a resolution approving and forming the reimbursement district shall be adopted.

2. Repealed by Ord. 96-13. (Ord. 96-13; Ord. 94-10).

13.09.060 Notice Of Public Hearing.

Not less than 10 nor more than 30 days prior to any public hearing held pursuant to this Chapter, the applicant and all owners of property within the proposed district shall be notified of such hearing and the purpose thereof. Such notification shall be accomplished by either regular mail or personal service. If notification is accomplished by mail, notice shall be mailed not less than 13 days prior to the hearing. Notice shall be deemed effective on the date that the letter of notification is mailed. Failure of the applicant or any affected property owner to be so notified shall not invalidate or otherwise affect any reimbursement district resolution or the City Council's action to approve the same. (Ord. 94-10).

13.09.070 City Council Action.

1. After the public hearing held pursuant to Section 13.09.050, the City Council shall approve, reject or modify the recommendations contained in the City Engineer's report. The City Council's decision shall be embodied in a resolution. If a reimbursement district is established, the resolution shall include the City Engineer's report as approved or modified.

2. When the applicant is other than the City, the resolution shall instruct the City Manager to enter into an agreement with the applicant pertaining to the reimbursement district

improvements. The agreement shall be contingent upon the improvements being accepted by the City. The agreement, at a minimum, shall contain the following provisions:

a. The public improvement(s) shall meet all applicable City standards.

b. The estimated total amount of potential reimbursement to the applicant.

c. The applicant shall defend, indemnify and hold harmless the City from any and all losses, claims, damage, judgments or other costs or expense arising as a result of or related to the City's establishment of the district.

d. The applicant shall acknowledge that the City is not obligated to collect the reimbursement fee from affected property owners.

e. Other provisions as the City Council determines necessary and property to carry out the provisions of this Chapter.

3. If a reimbursement district is established by the City Council, the date of the formation of the district shall be the date that the City Council adopts the resolution forming the district.

4. The City Council resolution and reimbursement agreement shall determine the boundaries of the reimbursement district and shall determine the methodology for imposing a fee which considers the cost of reimbursing the applicant for financing the construction of a street, water or sewer improvement within the reimbursement district. (Ord. 96-13; Ord. 94-10).

13.09.080 Notice Of Adoption Of Resolution.

The City shall notify all property owners within the district and the applicant of the adoption of a reimbursement district resolution.

TIGARD MUNICIPAL CODE

The notice shall include a copy of the resolution, the date it was adopted and a short explanation of when the property owner is obligated to pay the reimbursement fee and the amount of the fee. (Ord. 94-10).

13.09.090 Recording The Resolution.

The City Recorder shall cause notice of the formation and nature of the reimbursement district to be filed in the office of the County Recorder so as to provide notice to potential purchasers of property within the district. Said recording shall not create a lien. Failure to make such a recording shall not affect the legality of the resolution or the obligation to pay the reimbursement fee. (Ord. 94-10).

13.09.100 Contesting The Reimbursement District.

No legal action intended to contest the formation of the district or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed after 60 days following adoption of a resolution establishing a reimbursement district. (Ord. 94-10).

13.09.105 Final Public Hearing.

1. Within three months after completion and acceptance of the improvements, the applicant shall submit to the City Engineer the actual cost of the improvements as evidenced by receipts, invoices or other similar documents. The City Engineer shall review the actual costs and shall prepare a written report for the City Council recommending revisions to the report prepared under 13.09.030.

2. The final cost shall not exceed by more than 10% the cost estimated at the time of reimbursement district formation unless an exception is approved by the City Council. An exception may be approved only if the applicant

can show legitimate circumstances beyond the control of the applicant which cause the cost increase.

3. Within a reasonable time after the City Engineer has completed the report required in Subsection 13.09.105.1, the City Council shall hold an informational public hearing in which any person shall be given the opportunity to comment on the recommended revisions.

4. Failure to provide the documentation required by this section shall result in the automatic lapse of any resolution adopted by the City Council pursuant to Section 13.09.050. Following the final public hearing provided for herein, and subject to the limitations provided for herein, the City Council shall have the authority to approve, rescind, or modify the reimbursement district. (Ord 96-13).

13.09.110 Obligation To Pay Reimbursement Fee.

1. The applicant for a permit related to property within any reimbursement district shall pay the City, in addition to any other applicable fees and charges, the reimbursement fee established by the Council, if within the time specified in the resolution establishing the district, the person applies for and receives approval from the City for any of the following activities:

a. A building permit for a new building;

b. Building permit(s) for any addition(s), modification(s), repair(s) or alteration(s) of a building, which exceed twenty-five percent (25%) of the value of the building within any 12-month period. The value of the building shall be the amount shown on the most current records of the County Department of Assessment and Taxation for the building's real market value. This paragraph shall not apply to

TIGARD MUNICIPAL CODE

repairs made necessary due to damage or destruction by fire or other natural disaster;

c. Any alteration, modification or change in the use of real property, which increases the number of parking spaces required under the Tigard Community Development code in effect at the time of permit application;

d. Connection to or use of a water improvement, if the reimbursement district is based on the water improvement;

e. Connection to or use of a sewer improvement, if the reimbursement district is based on the sewer improvement;

f. Connection to or use of a street improvement, if the reimbursement district is based on the street improvement.

2. The City's determination of who shall pay the reimbursement fee is final. Neither the City nor any officer or employee of the City shall be liable for payment of any reimbursement fee or portion thereof as a result of this determination.

3. A permit applicant whose property is subject to payment of a reimbursement fee receives a benefit from the construction of street improvements, regardless of whether access is taken or provided directly onto such street at any time. Nothing in this ordinance is intended to modify or limit the authority of the City to provide or require access management.

4. No person shall be required to pay the reimbursement fee on an application or upon property for which the reimbursement fee has been previously paid, unless such payment was for a different type of improvement. No permit shall be issued for any of the activities listed in Subsection 13.09.110.1 unless the reimbursement fee has been paid in full. Where approval is given as specified in Subsection 13.09.110.1, but no

permit is requested or issued, then the requirement to pay the reimbursement fee lapses if the underlying approval lapses.

5. The date when the right of reimbursement ends shall not extend beyond fifteen years from the district formation date. (Ord. 96-13; Ord. 94-10).

13.09.115 Annual Fee Adjustment.

The City Council may grant an annual fee adjustment at the time of application for formation of a reimbursement district as provided in this section.

1. An annual fee adjustment shall be applied to the reimbursement fee beginning on the first anniversary of the date of the reimbursement agreement as a return on the investment for the person or the City. The annual fee adjustment shall be fixed and computed against the reimbursement fee as simple interest and will not compound. The amount of the fee adjustment shall be determined at the time that a district is formed and shall be the same each year.

2. Each fiscal year, the Finance Director shall recommend to the City Council an interest rate to be used in determining the annual fee adjustment for reimbursement districts. The City Council shall consider the recommendation of the Finance Director and shall adopt an interest rate to be used in determining the annual fee adjustment. The interest rate adopted by the City Council shall be applied to all reimbursement districts formed during the fiscal year, for which annual fee adjustments are approved. (Ord. 96-13).

13.09.120 Administration.

1. The right of reimbursement is assignable and transferable after written notice is delivered to the City, advising the City to whom future payments are to be made.

TIGARD MUNICIPAL CODE

2. The City shall establish separate accounts for each reimbursement district. Upon receipt of a reimbursement fee, the City shall cause a record to be made of that property's payment and remit the fee to the person who requested establishment of the reimbursement district or their assignee.

3. The reimbursement fee is in lieu of a local improvement district charge for the improvements installed pursuant to the reimbursement district agreement. The reimbursement fee is not intended to replace or limit any other fee or charge collected by the city. (Ord. 01-26, Ord. 94-10). ■

CITY OF TIGARD
96-
ORDINANCE NO. 13

AN ORDINANCE AMENDING CHAPTER 13.09, REIMBURSEMENT DISTRICTS OF THE TIGARD MUNICIPAL CODE.

WHEREAS, the City Council finds that Chapter 13.09 of the Tigard Municipal Code should be updated; now, therefore:

THE CITY OF TIGARD ORDAINS AS FOLLOWS:

Section 1. Section 13.09.010(9) is amended to read as follows:

"Reimbursement Fee" means the fee required to be paid by a resolution of the City Council and the reimbursement agreement.

Section 2. Section 13.09.020, Application for a Reimbursement District is amended to read as follows:

(1) Any person who is required to or chooses to finance some or all of the cost of a street, water or sewer improvement which is available to provide service to property, other than property owned by the person, may, by written application filed with the City Engineer, request that the City establish a reimbursement district. The street, water and sewer improvements must include improvements in addition to or in a size greater than those which would otherwise ordinarily be required in connection with an application for permit approval and must be available to provide service to property other than property owned by the applicant. Examples include but shall not be limited to full street improvements instead of half street improvements, off site sidewalks, connection of street sections for continuity, extension of water lines and extension of sewer lines. The City may also initiate formation of a reimbursement district. The application shall be accompanied by a fee, as established by resolution, sufficient to cover the cost of administrative review and notice pursuant to this Chapter.

(2) The application shall include the following:

(a) A description of the location, type, size and cost of the public improvement to be eligible for reimbursement.

(b) A map showing the properties to be included in the proposed reimbursement district; the zoning district for the properties; the front footage or square footage of said properties, or similar data necessary for calculating the apportionment of the cost; and the property or properties owned by the applicant.

(c) The estimated cost of the improvements as evidenced by bids, projections of the cost of labor and materials, or other evidence satisfactory to the City Engineer.

(d) The estimated date of completion of the public improvements.

(e) Applicant may request a discretionary annual fee adjustment, which, if granted, will be administered pursuant to Section 13.09.115.

Section 3. Section 13.09.030, City Engineer's Report, is amended to read as follows:

The City Engineer shall review the application for the establishment of a reimbursement district and evaluate whether a district should be established. The Engineer may require the submittal of other relevant information from the applicant in order to assist in the evaluation. The Engineer shall prepare a written report for the City Council, considering and making recommendations concerning the following factors:

(a) Whether the applicant will finance some or all of the cost of a street, water or sewer improvement, thereby making service available to property, other than property owned by the applicant;

(b) The area to be included in the reimbursement district;

(c) The estimated cost of the street, water or sewer improvements within the area of the proposed reimbursement district and the portion of the cost for which the applicant should be reimbursed;

(d) A methodology for spreading the cost among the parcels within the reimbursement district and where appropriate defining a "unit" for applying the reimbursement fee to property which may, with City approval, be partitioned, altered, modified, or subdivided at some future date. The methodology should include

consideration of the cost of the improvements, prior contributions by property owners, the value of the unused capacity, rate-making principles employed to finance public improvements, and other factors deemed relevant by the City Engineer. Prior contributions by property owners will only be considered if the contribution was for the same type of improvement and at the same location (example: a sewer-related contribution in the same location as a sewer improvement would be considered, a water-related contribution in the same location as a sewer improvement would not be considered);

(e) The amount to be charged by the City for administration of the agreement by the City. The administration fee shall be fixed by the City Council and will be included in the resolution approving and forming the reimbursement district. The administration fee is due and payable to the City at the time the agreement in Section 13.09.070(2) is signed.

(f) The period of time that the right to reimbursement exists if the period is less than fifteen years.

Section 4. Section 13.09.040, Amount to be Reimbursed, is amended to read as follows:

(1) The cost to be reimbursed to the applicant shall be limited to the cost of construction, engineering, and off-site right of way. Engineering shall include surveying and inspection and shall not exceed 13.5% of eligible construction cost. Costs to be reimbursed for right of way shall be limited to the reasonable market value of land or easements purchased by the applicant from a third party to complete off-site improvements.

(2) No reimbursement shall be allowed for financing costs, permits or fees required for construction permits, land or easements dedicated by the applicant, costs which are eligible for traffic impact fee credits or systems development charge credits, or any costs which cannot be clearly documented.

(3) No reimbursement shall be allowed for construction costs that occur prior to the formation date of the reimbursement district.

(4) Reimbursement for legal expenses shall be allowed only to the extent that such expenses relate to the preparation and filing of an application for reimbursement, and to working with the City through the Engineer's Report and formation public hearing stages of an application.

(5) A reimbursement fee shall be computed by the City for all properties which have the opportunity to utilize the improvements, including the property of the applicant for formation of a reimbursement district. The applicant for formation of the reimbursement district shall not be reimbursed for the portion of the reimbursement fee computed for the property of the applicant.

Section 5. Section 13.09.050(2) is hereby repealed.

Section 6. Section 13.09.070, City Council Action, is amended to read as follows:

(1) After the public hearing held pursuant to Section 13.09.050, the City Council shall approve, reject or modify the recommendations contained in the City Engineer's report. The City Council's decision shall be embodied in a resolution. If a reimbursement district is established, the resolution shall include the City Engineer's report as approved or modified.

(2) When the applicant is other than the City, the resolution shall instruct the City Administrator to enter into an agreement with the applicant pertaining to the reimbursement district improvements. The agreement shall be contingent upon the improvements being accepted by the City. The agreement, at a minimum, shall contain the following provisions:

(a) The public improvement(s) shall meet all applicable City standards.

(b) The estimated total amount of potential reimbursement to the applicant.

(c) The applicant shall defend, indemnify and hold harmless the City from any and all losses, claims, damage, judgments or other costs or expense arising as a result of or related to the City's establishment of the district.

- (d) The applicant shall acknowledge that the City is not obligated to collect the reimbursement fee from affected property owners.
 - (e) Other provisions as the City Council determines necessary and property to carry out the provisions of this Chapter.
- (3) If a reimbursement district is established by the City Council, the date of the formation of the district shall be the date that the City Council adopts the resolution forming the district.
- (4) The City Council resolution and reimbursement agreement shall determine the boundaries of the reimbursement district and shall determine the methodology for imposing a fee which considers the cost of reimbursing the applicant for financing the construction of a street, water or sewer improvement within the reimbursement district.

Section 7. Section 13.09.105, Final Public Hearing, is added to read as follows:

- (1) Within three months after completion and acceptance of the improvements, the applicant shall submit to the City Engineer the actual cost of the improvements as evidenced by receipts, invoices or other similar documents. The City Engineer shall review the actual costs and shall prepare a written report for the City Council recommending revisions to the report prepared under 13.09.030.
- (2) The final cost shall not exceed by more than 10% the cost estimated at the time of reimbursement district formation unless an exception is approved by the City Council. An exception may be approved only if the applicant can show legitimate circumstances beyond the control of the applicant which cause the cost increase.
- (3) Within a reasonable time after the City Engineer has completed the report required in subsection (1), the City Council shall hold an informational public hearing in which any person shall be given the opportunity to comment on the recommended revisions.
- (4) Failure to provide the documentation required by this section shall result in the automatic lapse of any resolution adopted by the City Council pursuant to section 13.09.050. Following the final public hearing provided for herein, and subject to the limitations provided for herein, the

City Council shall have the authority to approve, rescind, or modify the reimbursement district.

Section 8. Section 13.09.110, Obligation to Pay Reimbursement Fee, is amended to read as follows:

(1) The applicant for a permit related to property within any reimbursement district shall pay the City, in addition to any other applicable fees and charges, the reimbursement fee established by the Council, if within the time specified in the resolution establishing the district, the person applies for and receives approval from the City for any of the following activities:

- (a) A building permit for a new building;
- (b) Building permit(s) for any addition(s), modification(s), repair(s) or alteration(s) of a building, which exceed twenty-five percent (25%) of the value of the building within any 12-month period. The value of the building shall be the amount shown on the most current records of the County Department of Assessment and Taxation for the building's real market value. This paragraph shall not apply to repairs made necessary due to damage or destruction by fire or other natural disaster;
- (c) Any alteration, modification or change in the use of real property, which increases the number of parking spaces required under the Tigard Community Development code in effect at the time of permit application;
- (d) Connection to or use of a water improvement, if the reimbursement district is based on the water improvement;
- (e) Connection to or use of a sewer improvement, if the reimbursement district is based on the sewer improvement;
- (f) Connection to or use of a street improvement, if the reimbursement district is based on the street improvement.

(2) The City's determination of who shall pay the reimbursement fee is final. Neither the City nor any officer or employee of the City shall be liable for payment of any reimbursement fee or portion thereof as a result of this determination.

(3) A permit applicant whose property is subject to payment of a reimbursement fee receives a benefit from the construction of street improvements, regardless of whether access is taken or provided directly onto such street at any time. Nothing in this ordinance is intended to modify or limit the authority of the City to provide or require access management.

(4) No person shall be required to pay the reimbursement fee on an application or upon property for which the reimbursement fee has been previously paid, unless such payment was for a different type of improvement. No permit shall be issued for any of the activities listed in subsection 13.09.110(1) unless the reimbursement fee has been paid in full. Where approval is given as specified in subsection 13.09.110(1), but no permit is requested or issued, then the requirement to pay the reimbursement fee lapses if the underlying approval lapses.

(5) The date when the right of reimbursement ends shall not extend beyond fifteen years from the district formation date.

Section 9. Section 13.09.115, Annual Fee Adjustment, is added to read as follows:

The City Council may grant an annual fee adjustment at the time of application for formation of a reimbursement district as provided in this section.

(1) An annual fee adjustment shall be applied to the reimbursement fee beginning on the first anniversary of the date of the reimbursement agreement as a return on the investment for the person or the City. The annual fee adjustment shall be fixed and computed against the reimbursement fee as simple interest and will not compound. The amount of the fee adjustment shall be determined at the time that a district is formed and shall be the same each year.

(2) Each fiscal year, the Finance Director shall recommend to the City Council an interest rate to be used in determining the annual fee adjustment for reimbursement districts. The City Council shall consider the recommendation of the Finance Director and shall

adopt an interest rate to be used in determining the annual fee adjustment. The interest rate adopted by the City Council shall be applied to all reimbursement districts formed during the fiscal year, for which annual fee adjustments are approved.

PASSED: By Unanimous vote of all Council members present after being read by number and title only, this 9th day of April, 1996.

Catherine Wheatley
Catherine Wheatley, City Recorder

APPROVED: This 9th day of April, 1996.

Jim Nicoli
Jim Nicoli, Mayor

Approved as to form:

Paula J. Gung
City Attorney

4/9/96
Date

pjb\acm\90024\reimburs.or2(3/29/96)

CITY OF TIGARD

ORDINANCE NO. 94.10

AN ORDINANCE OF THE CITY OF TIGARD REPEALING TIGARD MUNICIPAL CODE CHAPTER 13.08, STREET, SEWER AND WATER IMPROVEMENTS; ADDING CHAPTER 13.09, REIMBURSEMENT DISTRICTS, WHICH PROVIDES A NEW PROCESS FOR FORMATION OF A REIMBURSEMENT DISTRICT; AND CLASSIFYING THE FEES IMPOSED BY CHAPTER 13.09 AS NOT SUBJECT TO ARTICLE XI, SECTION 11B OF THE OREGON CONSTITUTION.

WHEREAS, a person may construct street, water and sewer improvements which benefit adjacent property owners and relieve those adjacent property owners of installing such improvements; and

WHEREAS, in 1990, the City Council adopted a process (TMC Chapter 13.08) to impose a connection charge on adjacent property owners who are benefited by such street, water and sewer improvements; and

WHEREAS, the City Engineer has recommended numerous changes to the process in Chapter 13.08 and the City Council finds that the suggested changes will be beneficial; now, therefore:

THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Ordinance No. 90-23, codified as Tigard Municipal Code Chapter 13.08, is repealed.

SECTION 2: The Tigard Municipal Code is amended by adding Chapter 13.09, Reimbursement Districts, attached hereto as Exhibit "A" and incorporated herein by this reference.

SECTION 3: The City Council finds that the fees imposed by Chapter 13.09 of the Tigard Municipal Code are not taxes subject to the property tax limitations of Article XI, section 11(b) of the Oregon Constitution.

PASSED:

By Unanimous vote of all Council members
present after being read by number and title only,
this 10th day of May, 1994.

Catherine Wheatley
Catherine Wheatley, City Recorder

APPROVED: This 10th day of May, 1994.

Jack Elwood
Mayor

Approved as to form:

Jack Elwood
City Attorney

10 May 94
Date

Chapter 13.09

REIMBURSEMENT DISTRICTS

13.09.010 Definitions

(1) "City Engineer" or "Engineer" means the person holding the position of City Engineer or any officer or employee designated by that person to perform duties stated within this chapter.

(2) "City" means the City of Tigard.

(3) "Person" means a natural person, the person's heirs, executors, administrators, or assigns; a firm, partnership, corporation, association or legal entity, its or their successors or assigns; and any agent employee or any representative thereof.

(4) "Applicant" means a person, as defined in subsection (3), who is required or chooses to finance some or all of the cost of a street, water or sewer improvement which is available to provide service to property, other than property owned by the person, and who applies to the City for reimbursement for the expense of the improvement. The "applicant" may be the City.

(5) "Street Improvement" means a street or street improvement conforming with standards in the Tigard Community Development Code and including but not limited to streets, storm drains, curbs, gutters, sidewalks, bike paths, traffic control devices, street trees, lights and signs and public right-of-way.

(6) "Water Improvement" means a water or water line improvement conforming with standards in the Tigard Community Development Code and including but not limited to extending a water line to property, other than property owned by the applicant, so that water service can be provided for such other property without further extension of the line.

(7) "Sewer Improvement" means a sewer or sewer line improvement conforming with standards in the Tigard Community Development Code and including but not limited to extending a sewer line to property, other than property owned by the applicant, so that sewer service can be provided for such other property without further extension of the line.

(8) "Reimbursement District" means the area which is determined by the City Council to derive a benefit from the construction of street, water or sewer improvements, financed in whole or in part by the applicant and includes property which has the opportunity to utilize such an improvement.

(9) "Reimbursement Fee" means the fee required to be paid by a resolution of the City Council and the reimbursement agreement. The City Council resolution and reimbursement agreement shall determine the boundaries of the reimbursement district and shall determine the methodology for imposing a fee which considers the cost of reimbursing the applicant for financing the construction of a street, water or sewer improvement within the reimbursement district.

13.09.020 Application for a Reimbursement District

(1) Any person who is required to or chooses to finance some or all of the cost of a street, water or sewer improvement which is available to provide service to property, other than property owned by the person, may, by written application filed with the City Engineer, request that the City establish a reimbursement district. The street, water and sewer improvements must include improvements in addition to or in a size greater than those which would otherwise ordinarily be required in connection with an application for permit approval or must be available to provide service to property other than property owned by the applicant. Examples include but shall not be limited to full street improvements instead of half street improvements, off site sidewalks, connection of street sections for continuity, extension of water lines and extension of sewer lines. The City may also initiate formation of a reimbursement district. The application shall be accompanied by a fee, as established by resolution, sufficient to cover the cost of administrative review and notice pursuant to this Chapter.

(2) The application shall include the following:

(a) A description of the location, type, size and cost of the public improvement to be eligible for reimbursement.

(b) A map showing the properties to be included in the proposed reimbursement district; the zoning district for the properties; the front footage or square footage of said properties, or similar data necessary for calculating the apportionment of the cost; and the property or properties owned by the applicant.

(c) Post-construction: The actual cost of the improvements as evidenced by receipts, invoices or other similar documents. Pre-construction: The estimated cost of the improvements as evidenced by bids, projections of the cost of labor and materials, or other evidence satisfactory to the City Engineer.

(d) Post-construction: The date the City accepted the public improvements. Pre-construction: The estimated date of completion of the public improvements.

(3) Application for formation of a reimbursement district may be made at any time but shall be made no later than three months after completion and acceptance of the street, water or sewer improvements. However, the City Engineer may waive this requirement upon the showing by the applicant of good cause for the delay, that the delay was not created by the applicant, and that the delay was unavoidable due to unanticipated or unforeseen circumstances.

13.09.030 City Engineer's Report

The City Engineer shall review the application for the establishment of a reimbursement district and evaluate whether a district should be established. The Engineer may request the submittal of other relevant information from the applicant in order to assist in the evaluation. The Engineer shall prepare a written report for the City Council, considering and making recommendations concerning the following factors:

(a) whether the applicant will finance or has financed some or all of the cost of a street, water or sewer improvement, thereby making service available to property, other than property owned by the applicant;

(b) the area to be included in the reimbursement district;

(c) the actual or estimated cost of the street, water or sewer improvements within the area of the proposed reimbursement district and the portion of the cost for which the applicant should be reimbursed;

(d) a methodology for spreading the cost among the parcels within the reimbursement district and where appropriate defining a "unit" for applying the reimbursement fee to property which may, with City approval, be partitioned, altered, modified, or subdivided at some future date. The methodology should include consideration of the cost of the improvements, prior contributions by property owners, the value of the unused capacity, rate-making principles employed to finance public improvements, and other factors deemed relevant by the City Engineer. Prior contributions by property owners will only be considered if the contribution was for the same type of improvement and at the same location (example: a sewer-related contribution in the same location as a sewer improvement would be considered, a water-related contribution in the same location as a sewer improvement would not be considered);

(e) the reimbursement fee shall be adjusted annually beginning on the first anniversary of the date of the reimbursement agreement as a return on the investment for the person or the City. The annual fee adjustment shall be fixed and determined by the Council and computed against the reimbursement fee as simple interest and will not compound. The City Engineer may take into account the documented cost of any financing, including prepayment points, prepayment penalties, loan fees, and the actual percentage rate of interest being paid by the applicant, when recommending the annual fee adjustment to the City Council;

(f) the amount to be charged by the City for administration of the agreement by the City. The administration fee shall be fixed by the Council and will be included in the resolution approving and forming the reimbursement district. The administration fee is due and payable to the City at the time the agreement in Section 13.09.070(2) is signed.

(g) the period of time that the right to reimbursement exists if the period is less than fifteen years.

13.09.040 Amount to be Reimbursed

(1) The cost to be reimbursed to the applicant shall be limited to the cost of construction, including the acquisition and condemnation costs of acquiring additional right-of-way, the cost of permits, engineering and legal expenses, and the annual fee adjustment fixed and determined by the Council.

(2) A reimbursement fee shall be computed by the City for all properties which have the opportunity to utilize the improvements, including the property of the applicant for formation of a reimbursement district. The applicant for formation of the reimbursement district shall not be reimbursed for the portion of the reimbursement fee computed for the property of the applicant.

13.09.050 Public Hearing

(1) Within a reasonable time after the City Engineer has completed the report required in Section 13.09.030, the City Council shall hold an informational public hearing in which any person shall be given the opportunity to comment on the proposed reimbursement district. Because formation of the reimbursement district does not result in an assessment against property or lien against property, the public hearing is for informational purposes only and is not subject to mandatory termination because of remonstrances. The City Council has the sole discretion after the public hearing to decide whether a resolution approving and forming the reimbursement district shall be adopted.

(2) If a reimbursement district is formed prior to construction of the improvement(s), a second public hearing shall be held after the improvement has been accepted by the City. At that time, the City Council may modify the resolution to reflect the actual cost of the improvement(s).

13.09.060 Notice of Public Hearing

Not less than 10 nor more than 30 days prior to any public hearing held pursuant to this Chapter, the applicant and all owners of property within the proposed district shall be notified of such hearing and the purpose thereof. Such notification shall be accomplished by either regular mail or personal service. If notification is accomplished by mail, notice shall be mailed not less than 13 days prior to the hearing. Notice shall be deemed effective on the date that the letter of notification is mailed. Failure of the applicant or any affected property owner to be so notified shall not invalidate or otherwise affect any reimbursement district resolution or the City Council's action to approve the same.

13.09.070 City Council Action

(1) After the public hearing held pursuant to Section 13.09.050(1), the City Council shall approve, reject or modify the recommendations contained in the City Engineer's report. The City Council's decision shall be embodied in a resolution. If a reimbursement district is established, the resolution shall include the City Engineer's report as approved or modified, and specify that payment of the reimbursement fee, as designated for each parcel, is a precondition of receiving City permits applicable to development of that parcel as provided for in Section 13.09.110.

(2) When the applicant is other than the City, the resolution shall instruct the City Administrator to enter into an agreement with the applicant pertaining to the reimbursement district improvements. If the agreement is entered into prior to construction, the agreement shall be contingent upon the improvements being accepted by the City. The agreement, at a minimum, shall contain the following provisions:

(a) The public improvement(s) shall meet all applicable City standards.

(b) The total amount of potential reimbursement to the applicant.

(c) The annual fee adjustment set by the City Council.

(d) The applicant shall guarantee the public improvement(s) for a period of 12 months after the date of installation.

(e) The applicant shall defend, indemnify and hold harmless the City from any and all losses, claims, damage, judgments or other costs or expense arising as a result of or related to the City's establishment of the district.

(f) The applicant shall acknowledge that the City is not obligated to collect the reimbursement fee from affected property owners.

(g) Other provisions as the City Council determines necessary and proper to carry out the provisions of this Chapter.

(3) If a reimbursement district is established by the City Council, the date of the formation of the district shall be the date that the City Council adopts the resolution forming the district.

13.09.080 Notice of Adoption of Resolution

The City shall notify all property owners within the district and the applicant of the adoption of a reimbursement district resolution. The notice shall include a copy of the resolution, the date it was adopted and a short explanation of when the property owner is obligated to pay the reimbursement fee and the amount of the fee.

13.09.090 Recording the Resolution

The City Recorder shall cause notice of the formation and nature of the reimbursement district to be filed in the office of the County Recorder so as to provide notice to potential purchasers of property within the district. Said recording shall not create a lien. Failure to make such a recording shall not affect the legality of the resolution or the obligation to pay the

reimbursement fee.

13.09.100 Contesting the Reimbursement District

No legal action intended to contest the formation of the district or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed after 60 days following adoption of a resolution establishing a reimbursement district.

13.09.110 Obligation to Pay Reimbursement Fee

(1) The applicant for a permit related to property within any reimbursement district shall pay to the City, in addition to any other applicable fees and charges, the reimbursement fee established by the Council, together with the annual fee adjustment, if within the time specified in the resolution establishing the district, the person applies for and receives approval from the City for any of the following activities:

- (a) A building permit for a new building;
- (b) Building permit(s) for any addition(s), modification(s), repair(s) or alteration(s) of a building, which exceed twenty-five percent (25%) of the value of the building within any 12-month period. The value of the building shall be the amount shown on the most current records of the County Department of Assessment and Taxation for the building's real market value. This paragraph shall not apply to repairs made necessary due to damage or destruction by fire or other natural disaster;
- (c) Any alteration, modification or change in the use of real property, which increases the number of parking spaces required under the Tigard Community Development Code in effect at the time of permit application;
- (d) Connection to or use of a water improvement, if the reimbursement district is based on the water improvement;
- (e) Connection to or use of a sewer improvement, if the reimbursement district is based on the sewer improvement;

(f) Connection to or use of a street improvement, if the reimbursement district is based on the street improvement.

(2) The City's determination of who shall pay the reimbursement fee is final. Neither the City nor any officer or employee of the City shall be liable for payment of any reimbursement fee, annual fee adjustment, or portion thereof as a result of this determination.

(3) A permit applicant whose property is subject to payment of a reimbursement fee receives a benefit from the construction of street improvements, regardless of whether access is taken or provided directly onto such street at any time. Nothing in this ordinance is intended to modify or limit the authority of the City to provide or require access management.

(4) No person shall be required to pay the reimbursement fee on an application or upon property for which the reimbursement fee has been previously paid, unless such payment was for a different type of improvement. No permit shall be issued for any of the activities listed in subsection 13.09.110(1) unless the reimbursement fee, together with the annual fee adjustment, has been paid in full. Where approval is given as specified in subsection 13.09.110(1), but no permit is requested or issued, then the requirement to pay the reimbursement fee lapses if the underlying approval lapses.

(5) The date when the right of reimbursement ends shall not extend beyond fifteen years from the district formation date.

13.09.120 Administration

(1) The right of reimbursement is assignable and transferable after written notice is delivered to the City, advising the City to whom future payments are to be made.

(2) The City shall establish separate accounts for each reimbursement district. Upon receipt of a reimbursement fee, the City shall cause a record to be made of that property's payment and remit the fee to the person who requested establishment of the reimbursement district or their assignee.

(3) The reimbursement fee is not intended to replace or limit, and is in addition to, any other existing fees or charges collected by the City.

jmc\amd\tigard\reimburs.or3